

JAN -8 2013

**Board of Vocational Nursing
and Psychiatric Technicians**

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8 **BEFORE THE**
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. PT-2011-4468

11 **CARLA LYNN DAWSON**

12 245 Calle Arroyo
13 Shandon, CA 93461

14 Psychiatric Technician License No. PT35907

15 Respondent.

A C C U S A T I O N

16
17 Complainant alleges:

18 **PARTIES**

19 1. Teresa Bello-Jones, J.D., M.S.N., R.N. ("Complainant") brings this Accusation solely
20 in her official capacity as the Executive Officer of the Board of Vocational Nursing and
21 Psychiatric Technicians, Department of Consumer Affairs.

22 2. On or about February 15, 2011, the Board of Vocational Nursing and Psychiatric
23 Technicians issued Psychiatric Technician License Number PT35907 to Carla Lynn Dawson
24 ("Respondent"). The Psychiatric Technician License was in full force and effect at all times
25 relevant to the charges brought herein and will expire on June 30, 2014, unless renewed.

26 **JURISDICTION AND STATUTORY PROVISIONS**

27 3. This Accusation is brought before the Board of Vocational Nursing and Psychiatric
28 Technicians ("Board"), Department of Consumer Affairs, under the authority of the following

1 laws. All section references are to the Business and Professions Code ("Code") unless otherwise
2 indicated.

3 4. Section 4520 of the Code provides, in pertinent part, that the Board may discipline
4 any licensed psychiatric technician for any reason provided in Article 3 (commencing with
5 section 4520) of the Psychiatric Technicians Law (Code § 4500, et. seq.)

6 5. Section 4521 of the Code states in pertinent part:

7 "The board may suspend or revoke a license issued under this chapter for
8 any of the following reasons:

9 (a) Unprofessional conduct, which includes but is not limited to any of
10 the following:

11 ...

12 (5) Use any controlled substance as defined in Division 10 (commencing
13 with Section 11000) of the Health and Safety Code, or any dangerous drug as defined
14 in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or
15 injurious to himself or herself, any other person, or the public or to the extent that the
16 use impairs his or her ability to conduct with safety to the public the practice
17 authorized by his or her license.

18 (6) Be convicted of a criminal offense involving the falsification of
19 records concerning prescription, possession, or consumption of any of the substances
20 described in paragraphs (4) and (5), in which event the record of the conviction is
21 conclusive evidence of the conviction. The board may inquire into the circumstances
22 surrounding the commission of the crime in order to fix the degree of discipline.

23 (7) Be committed or confined by a court of competent jurisdiction for
24 intemperate use of or addiction to the use of any of the substances described in
25 paragraphs (4) and (5), in which event the court order of commitment or confinement
26 is prima facie evidence of the commitment or confinement.

27 ...

28 (d) Violating or attempting to violate, directly or indirectly, or assisting
in or abetting the violation of, or conspiring to violate any provision or terms of this
chapter.

...

(f) Conviction of any offense substantially related to the qualifications,
functions, and duties of a psychiatric technician, in which event the record of the
conviction shall be conclusive evidence of the conviction. The board may inquire
into the circumstances surrounding the commission of the crime in order to fix the
degree of discipline."

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1 6. Section 490 of the Code states in pertinent part:

2 “(a) In addition to any other action that a board is permitted to take
3 against a licensee, a board may suspend or revoke a license on the ground that the
4 licensee has been convicted of a crime, if the crime is substantially related to the
5 qualifications, functions, or duties of the business or profession for which the license
6 was issued.

7 (b) Notwithstanding any other provision of law, a board may exercise any
8 authority to discipline a licensee for conviction of a crime that is independent of the
9 authority granted under subdivision (a) only if the crime is substantially related to the
10 qualifications, functions, or duties of the business or profession for which the
11 licensee's license was issued.

12 (c) A conviction within the meaning of this section means a plea or
13 verdict of guilty or a conviction following a plea of nolo contendere. Any action that
14 a board is permitted to take following the establishment of a conviction may be taken
15 when the time for appeal has elapsed, or the judgment of conviction has been
16 affirmed on appeal, or when an order granting probation is made suspending the
17 imposition of sentence, irrespective of a subsequent order under the provisions of
18 Section 1203.4 of the Penal Code.”

19 7. Section 493 of the Code states:

20 “Notwithstanding any other provision of law, in a proceeding conducted
21 by a board within the department pursuant to law to deny an application for a license
22 or to suspend or revoke a license or otherwise take disciplinary action against a
23 person who holds a license, upon the ground that the applicant or the licensee has
24 been convicted of a crime substantially related to the qualifications, functions, and
25 duties of the licensee in question, the record of conviction of the crime shall be
26 conclusive evidence of the fact that the conviction occurred, but only of that fact, and
27 the board may inquire into the circumstances surrounding the commission of the
28 crime in order to fix the degree of discipline or to determine if the conviction is
29 substantially related to the qualifications, functions, and duties of the licensee in
30 question.

31 As used in this section, ‘license’ includes ‘certificate,’ ‘permit,’
32 ‘authority,’ and ‘registration.’”

33 8. Section 4523 of the Code provides:

34 “A plea or verdict of guilty or a conviction following a plea of nolo
35 contendere made to a charge substantially related to the qualifications, functions and
36 duties of a psychiatric technician is deemed to be a conviction within the meaning of
37 this article. The board may order the license suspended or revoked or may decline to
38 issue a license, when the time for appeal has lapsed, or the judgment or conviction
39 has been affirmed on appeal or when an order granting probation is made suspending
40 the imposition of sentence, irrespective of a subsequent order under the provisions of
41 Section 1203.4 of the Penal Code allowing the person to withdraw his plea of guilty
42 and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing
43 the accusation, information, or indictment.”

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1 **REGULATORY PROVISIONS**

2 9. California Code of Regulations, title 16, section 2576.6 provides, in pertinent part:

3 (b) A licensed psychiatric technician shall adhere to standards of the
4 profession and shall incorporate ethical and behavioral standards of professional
practice which include but are not limited to the following:

5 ...

6 (4) Abstaining from chemical/substance abuse; and

7 ...

8 (c) A violation of this section constitutes unprofessional conduct for
9 purposes of initiating disciplinary action.”

10 10. California Code of Regulations, title 16, section 2578 provides, in pertinent part:

11 “For the purposes of denial, suspension, or revocation of a license
12 pursuant to Division 1.5 (commencing with Section 475) of the Business and
Professions Code, a crime or act shall be considered to be substantially related to the
13 qualifications, functions or duties of a licensed psychiatric technician if to a
substantial degree it evidences present or potential unfitness of a licensed psychiatric
14 technician to perform the functions authorized by his license in a manner consistent
with the public health, safety, or welfare. Such crimes or acts shall include but not be
limited to those involving the following:

15 ...

16 (c) Violating or attempting to violate, directly or indirectly, or assisting in
17 or abetting the violation of, or conspiring to violate any provision or term of Chapter
10, Division 2 of the Business and Professions Code.”

18 **COST RECOVERY**

19 11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
20 administrative law judge to direct a licensee found to have committed a violation or violations of
21 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
22 enforcement of the case.

23 **FIRST CAUSE FOR DISCIPLINE**

24 **(Conviction of Substantially Related Crime)**

25 12. Respondent is subject to disciplinary action under section 4521, subdivision (f) and
26 section 490 of the Code in conjunction with California Code of Regulations, title 16, section 2578
27 in that Respondent was convicted of a crime substantially related to the qualifications, functions
28 and duties of a psychiatric technician, as follows:

1 13. On or about April 11, 2012, Respondent pled nolo contendere to and was
2 convicted of one misdemeanor count of violating Vehicle Code section 23152(b) [drive with 0.08
3 percent or more, by weight, of alcohol in his or her blood] in the criminal proceeding entitled *The*
4 *People of the State of California v. Carla Lynn Dawson* (Super. Ct. of California, County of San
5 Luis Obispo, San Luis Branch, 2012, Case No. M000471305). As part of that plea, Respondent
6 admitted to an enhancement pursuant to Vehicle Code section 23578 [0.15 percent or more, by
7 weight, of alcohol in his or her blood]. The court sentenced Respondent to 10 days in county jail
8 and placed Respondent on probation for a period of three years, with terms and conditions,
9 including enrolling and completing a 9 month DWI first offender program. The circumstances
10 underlying the conviction are, as follows:

11 14. On or about February 9, 2012, at approximately 0240 hours, San Luis Obispo
12 County Sheriff's Deputies ("Deputies") were driving behind Respondent's vehicle on northbound
13 US 101, north of Main street and observed the vehicle swerve in its lane, swerve out of its lane to
14 the right where it struck the steel guardrail and bounce off the guardrail, across both traffic lanes
15 into the dirt center median where it came to a rest. Responding California Highway Patrol
16 Officers ("Officers") observed the strong odor of an alcoholic beverage emitting from
17 Respondent's breath and Respondent's red, watery eyes. While speaking with Respondent,
18 Officers observed her slow speech. Respondent failed to perform Field Sobriety Tests as
19 explained and demonstrated. Respondent elected to take a blood test which yielded 0.24% Blood
20 Alcohol Concentration.

21 **SECOND CAUSE FOR DISCIPLINE**

22 **(Unprofessional Conduct: Chemical or Substance Abuse)**

23 15. Respondent is subject to disciplinary action under section 4521, subdivision (a) of the
24 Code as defined in California Code of Regulations, title 16, section 2576.6, subdivision (b)(4) on
25 the grounds of unprofessional conduct in that Respondent failed to abstain from substance abuse.
26 The conduct is described in paragraphs 13 and 14, inclusive and hereby incorporated by
27 reference.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct: Dangerous Use of Alcoholic Beverages)**

3 16. Respondent is subject to disciplinary action under section 4521, subdivision (a)(5) of
4 the Code on the grounds of unprofessional conduct in that Respondent used alcoholic beverages
5 to an extent and in a manner dangerous or injurious to herself, others and the public. The conduct
6 is described in paragraph 14 above, inclusive and hereby incorporated by reference.

7 **FOURTH CAUSE FOR DISCIPLINE**

8 **(Unprofessional Conduct: Conviction Involving Consumption of Alcoholic Beverages)**

9 17. Respondent is subject to disciplinary action under section 4521, subdivision (a)(6) of
10 the Code on the grounds of Unprofessional Conduct in that Respondent was convicted of a
11 criminal offense involving the consumption of alcoholic beverages. The conviction is described
12 in more particularity in paragraph 13 above, inclusive and hereby incorporated by reference.

13 **FIFTH CAUSE FOR DISCIPLINE**

14 **(Unprofessional Conduct: Confinement by Court for Use Alcoholic Beverages)**

15 18. Respondent is subject to disciplinary action under section 4521, subdivision (a)(7) of
16 the Code in that Respondent was confined by a court for the intemperate use of alcoholic
17 beverages. The conviction and confinement is described in more particularity in paragraph 13
18 above, inclusive and hereby incorporated by reference.

19 **SIXTH CAUSE FOR DISCIPLINE**

20 **(Violations of Psychiatric Technicians Law)**

21 19. Respondent is subject to disciplinary action under section 4521, subdivision (d) of the
22 Code in conjunction with California Code of Regulations, title 16, section 2578 in that
23 Respondent violated provisions of Chapter 10, Division 2 of the Business and Professions Code.
24 The violations are described in more particularity in paragraphs 12 through 18 above, inclusive
25 and hereby incorporated by reference.

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1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
3 and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians
4 issue a decision:

5 1. Revoking or suspending Psychiatric Technician License Number PT35907, issued to
6 Carla Lynn Dawson;

7 2. Ordering Carla Lynn Dawson to pay the Board of Vocational Nursing and Psychiatric
8 Technicians the reasonable costs of the investigation and enforcement of this case, pursuant to
9 Business and Professions Code section 125.3;

10 3. Taking such other and further action as deemed necessary and proper.
11

12
13 DATED: JAN 08 2013



14 TERESA BELLO-JONES, J.D., M.S.N., R.N.
15 Executive Officer
16 Board of Vocational Nursing and Psychiatric Technicians
17 Department of Consumer Affairs
18 State of California
19 Complainant

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